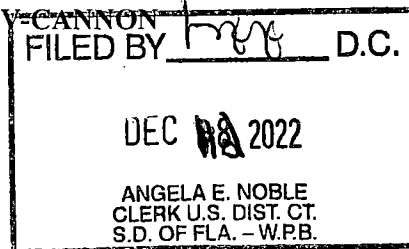


UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

CIVIL ACTION NO. 22-cv-81766-CIV-CANNON



ANDREW HORACE,

Plaintiff,

V.

ARIA (Addiction Recovery Institute of America), Evernia Health Center, LLC, American Treatment Holdings INC and Ethema Health Corporation

C/o Shawn Leon

Defendant.

\_\_\_\_\_ /

AMENDED COMPLAINT,

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS

MOTION TO DISMISS PURSUANT TO RULE 12(f) MOTION TO STRIKE AND REQUEST CASE MANAGEMENT CONFERENCE. RULE 1.200(a) OF THE FLORIDA RULES OF CIVIL PROCEDURE.

COMES NOW, Plaintiff, pro se by and through the undersigned counsel. Plaintiff sues ARIA (Addiction Recovery Institute of America), Evernia Health Center, LLC, American Treatment Holdings, INC and Ethema Health Corporation. Plaintiff states as follows:

ARGUMENT:

*Please take note. Defendant has violated employment laws before under one of its fictitious names: Lopez v. Evernia Health Center, LLC (9:19-cv-81695). Consequently, Defendant has committed unlawful EMPLOYMENT practices again under its new name (ARIA). Defendant is not above the law and their unlawful employment behavior/practices must STOP. Respectfully, Defendant must be held accountable to the highest extent as Defendant continued engaging in unlawful employment behavior even after the filing of Lopez v. Evernia case. Defendant is NOTORIOUS in stealing of employee wages and racial discrimination.*

Furthermore, Defendant has already **demonstrated dishonesty** to this Court in its Motion to Dismiss. this has caused defendant to lose all *credence* and nothing should be granted in its favor or delayed in resolving this matter. *Plaintiff's civil claim must be considered as material facts have been established.*

1. Defendant claims that Plaintiff payroll was an *inadvertent (error) payroll issue*, it was deliberate.

Nothing is inadvertently. when it was done twice with different numeric values and spoken to once regarding the issue! Anyone with common sense. knows after inputting a numeric value into a payroll system you save and close, therefore someone went back into the system and changed Plaintiff's pay-rate intentionally.

2. Again, Plaintiff witnessed Jefferey (hiring Manager) Mann inputting 15/hr. into its payroll system saving and closing!

3. When you perform a willful act against an employee knowing that it's unlawful... *disparate treatment*. The Defendant was ultimately dishonest by saying in a text messages regarding Plaintiff's payroll; *is correct/status is current*, yes indeed...

*disparate treatment.*

4. *Disparate treatment refers to intentional discrimination, where people in a protected class are deliberately treated differently. This is the most common type of discrimination.*

5. Plaintiff's protected class is Black.

6. Throughout Plaintiff's employment with ARIA, there were no reports of non-black employees having payroll issues. It was only Black employees. Non-Black employees were not subjected to disparate treatment

7. The sad reality is that in 2022, racial discrimination in the workplace remains a problem. State laws strictly prohibit racism at work.

8. Refusal in correcting Plaintiff's payroll when asked *constitutes as disparate treatment*

9. Defendant failed to mention in its Motion to Dismiss that Plaintiff's payroll was changed from 10/hr. to 0.1875/hr.; see **EXHIBIT A-C**

10. Defendant has demonstrated dishonesty in its Motion to Dismiss. Nothing was fully corrected within three paychecks. Payment was received months later...**EXHIBIT D** Plaintiff was provoked to resign on February 13, 2022 due to: *refusal in*

*correcting payroll, hostile environment, race discrimination and unethical business practices.* Due to the refusal in correcting Plaintiff's payroll, Plaintiff's had to get a wage Attorney, therefore Plaintiff's payroll issue was not corrected within three paychecks according to Defendant ... see **EXHIBIT D**

11. Plaintiff's allegations hold substantial weight as material facts are established

#### **JURISDICTION AND VENUE**

12. This is an action for damages and other relief based on unlawful employment practices committed by Defendant and jurisdiction of State Court is invoked pursuant to the provisions Florida Civil Rights Act ("FCRA"), §§ 760.01-760.11.

13. Jurisdiction is conferred upon State Court

14. The claims asserted in this Complaint arose in the Fifteenth Judicial Circuit Court during the course of Plaintiff's employment with Defendant

15. Venue is proper in State Court pursuant to since Plaintiff was employed by Defendant in the Fifteenth Judicial Circuit of Florida, which at all material times conducted, and continues to conduct, business in the Fifteenth Judicial Court of Florida, and because the acts that give rise to Plaintiff's claims occurred within the Fifteenth Judicial Court of Florida and because Defendants subject to personal jurisdiction there.

16. **Chapter 48 193 2016 Florida Statutes 1. Operating, conducting, engaging in, or carrying on a business or business venture in this state ...**

#### **PARTIES**

17. Plaintiff was at all times relevant to this action, resided within the Fifteenth Judicial District of Florida.

18. Plaintiff is over the age of eighteen and otherwise sui juris.

19. Plaintiff is a Black male and a member of a class protected under The Florida Civil

Rights Act of 1992, because the terms conditions and privileges of his employment were altered because of his race

20. Further, Plaintiff suffered disparate treatment from Defendant on behalf of Defendant changing his payroll twice without consent, then refusing to correct payroll issue upon asking numerous times to three different levels of management, which places him within a class protected under The Florida Civil Rights Act of 1992.

21. Defendant had, at all times material, employed 15 or more employees for each working day in each of twenty or more calendar weeks in the current or preceding year in accordance with FCRA (42 U.S.C. §2000e(b); Fla. Stat. §760.02(7)).

22. Plaintiff has exhausted his administrative remedies by filing a timely charge of discrimination ("Charge") against the Defendant with the Office of Equal Opportunity and the Florida Commission on Human Relations ("FCHR").

23. Plaintiff's OEO Charge was signed on March 25, 2022

24. The OEO took no action in requesting documents of a Non-Black employee's records per Plaintiff request to Plaintiff's Charge of Discrimination within 180 days of the filing of Charge.

25. Plaintiff filed a private lawsuit in the active investigation of OEO investigation because *Investigator Steven Antonoff* was dishonest and mishandled Plaintiff Charge of Discrimination by not obtaining proper documents from of Defendant Non-black employees' **Exhibit E-F**

26. All other conditions precedent to this action have been performed or have been waived.

**COUNT I**

**VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992**

**(DISCRIMINATION BASED ON RACE)**

27. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-26 of this complaint as if set out in full herein.

27. Plaintiff brings this action under Florida Civil Rights Act of 1992 **Sections 760.01-760.11 and 509.092** for damages caused by Defendant's unlawful employment practices committed against Plaintiff.

28. Plaintiff is a member of a protected class, to wit, black race.

29. Defendant, by and through its supervisors and other representatives, did not treat Plaintiff the same as other Non-Black employees as alleged above under the name **ARIA**

30. Defendant did not treat Plaintiff the same as other Non-Black employees in that Plaintiff suffered disparate treatment and was subject to racial discriminatory practices.

31. At all times material hereto, the Defendant failed to comply with the Florida Civil Rights Act of 1992 Sections 760.01-760.11 and 509.092

32. The Plaintiff was subjected to disparate treatment in the workplace, in that similarly situated, Non-Black employees did not have to jump through hoops in order to get their wages back nor reports of Non-Blacks employees under ARIA with payroll issues.

33. At the time of this treatment from Defendant, the Plaintiff endured a hostile work environment

34. The Defendant is an employer who has actual knowledge of the requirements of

The Florida Civil Rights Act of 1992, considering Defendants pass history in *Lopez v. Evernia Health Center, LLC (9:19-cv-81695)*.

35. The failure of Defendant to adhere to the mandates of the Act was willful and its violations of the provisions of the Act were willful.

36. Defendant, through its practices and policies as an employer, willfully, and with malicious or reckless disregard of Plaintiff's Florida Civil protected rights, discriminated against Plaintiff on account of his race in violation of Act with respect to its decision to treat Plaintiff different from other Non-Black employees.

37. If, however, the reason(s) proffered by Defendant are found to be with merit, Plaintiff's race,

was a motivating factor in the decision for the adverse employment action(s).

38. As a direct and proximate result of the Defendant's willful conduct, Plaintiff suffered emotional distress.

39. Plaintiff is entitled to such affirmative relief as may be appropriate, including, but not limited to, compensatory; lost wages, benefits, and compensation for emotional distress, pursuant to the provisions

of *Florida Civil Rights Act of 1992 Sections 760.01-760.11 and 509.092*

40. Plaintiff, based on information and belief, alleges that Defendant's actions were done with malice, and with intentional disregard for his protected rights under The Florida Civil Rights of 1992. Defendant, by and through their officers, and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct of Defendant's employees. Therefore, Plaintiff is also entitled to punitive damages from Defendant in a sum according to proof at trial.

#### **COUNT 11**

#### **VIOLATION OF THE FLORIDA CIVIL ACTS OF 1992**

#### **DISCRIMINATION BASED ON GENDER**

41. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-26 of this complaint as if set out in full herein.

42. Men and women in the same workplace be given equal pay for equal work. The jobs need not be identical, but they must be substantially equal.

43. Plaintiff's pay-rate was changed willfully without his consent

44. Plaintiff is a man and was working significantly less than a woman

45. Plaintiff was paid differently because of his gender

46. Defendant refused to correct Plaintiff's pay-rate back to 15.00 hour which was agreed upon during Hiring.

47. Plaintiff endured emotional distress as Defendant refused to correct pay-rate back to 15/hour after speaking to three different levels of Management

**WHEREFORE**, Plaintiff respectfully requests that:

A. The Court grant Plaintiff judgment award Plaintiff judgment against Defendant to

compensate him for past and future pecuniary losses, and disparate treatment caused by Defendant's discriminatory treatment in an amount to be determined at trial and in accordance with the *Florida Civil Rights Act of 1992 Sections 760.01-760.11 and 509.092*

B. The Court award punitive damages as permitted under the law

C. The Court award Plaintiff the costs of this action together with his reasonable attorney's fees incurred herein, pursuant to contract and/or statute

D. Require Defendant to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by Defendant, or in lieu of reinstatement, award front pay;

E. The Court award Plaintiff such other and further relief as the Court deems appropriate.

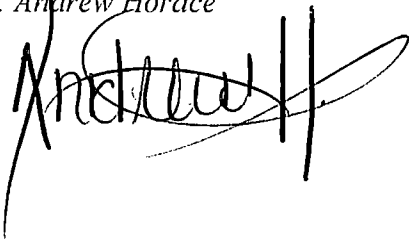
**DEMAND FOR JURY TRIAL**

Plaintiff ANDREW L. HORACE demands trial by jury on this cause of action and all counts of this complaint so triable as a matter of right.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 12th day of December, 2022, a true and correct copy of the foregoing was filed with the State/ Federal Court and a true copy was emailed to Defendant's counsel Kenneth M. Rehns @ [krehns@warddamon.com](mailto:krehns@warddamon.com)

Mr. Andrew Horace

A handwritten signature in black ink, appearing to read "Andrew Horace", with a large, stylized flourish extending from the end of the signature.

EVERNIA HEALTH CENTER, LLC (22542)  
d/b/a ARIA  
950 EVERNIA STREET, SUITE 209  
WEST PALM BEACH, FL 33401  
561-628-9044

OASIS OUTSOURCING HR, LLC  
2054 VISTA PARKWAY STE 300  
WEST PALM BEACH, FL 33411  
OASIS SRQ LAUNCH TEAM 888-679-8865

Voucher #: 001998 Sort Order: 15

Employee ID	Employee Name	Check Date	Period Start	Period End	Check No
GZ3741		01-07-2022	12-20-2021	01-02-2022	45903348

Fed Tax SS/Single

State Tax /

Method Of Payment: Hourly

CURRENT EARNINGS DETAIL					DEDUCTIONS / TAXES		
Charge Description	Rate	Hours/Units	Amount	Hours Worked	Description	Amount	Y-T-D
01-02-2022 REG PAY	10.0000	33.97	339.70	33.97	MEDICARE - EE	4.93	4.93
					SOCIAL SEC - EE	21.06	21.06

✓ 15 min

✓ 589.58

- 318.71

198.87 417K 7/1/13.7819 = 182.14

Totals:	33.97	339.70	33.97
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DIRECT DEPOSIT			Net Pay
Type	Account	Amount	
C	86596	313.71	313.71

Net Pay Y-T-D

313.71

Total:	313.71
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Y-T-D EARNINGS		PAID TIME OFF	
Description	Amount	Description	C/O Accrued Used Available
REG PAY	339.70		

Total:	25.99	25.99
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EMPLOYER CONTRIBUTIONS		
Description	Amount	Y-T-D

Total:	339.70	** IMPORTANT NOTES **	Total:	0.00	0.00
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PHR\_SS\_OASIS\_CHECKS\_V2

# Oasis

A PAYCHEX company

ARIA  
950 EVERNIA STREET SUITE 209  
WEST PALM BEACH, FL 33401

01-07-2022

45903348

AMOUNT

\*\* VOID \*\*

Pay: Your net pay has been directly deposited into your bank account.

To The Order Of:

Negotiable



EVERNIA HEALTH CENTER, LLC (22542)  
d/b/a ARIA  
950 EVERNIA STREET, SUITE 209  
WEST PALM BEACH, FL 33401  
561-628-9044

OASIS OUTSOURCING HR, LLC  
2054 VISTA PARKWAY STE 300  
WEST PALM BEACH, FL 33411  
OASIS SRQ LAUNCH TEAM 888-679-8865  
Voucher #: 002078 Sort Order: 13

Employee ID	Employee Name	Check Date	Period Start	Period End	Check No
GZ3741		01-21-2022	01-03-2022	01-16-2022	46090325

Fed Tax SS/Single

State Tax /

Method Of Payment: Hourly

CURRENT EARNINGS DETAIL					DEDUCTIONS / TAXES			
Charge Date	Description	Rate	Hours/Units	Amount	Hours Worked	Description	Amount	Y-T-D
01-16-2022	REG PAY	X 0.1875	46.37	X 8.69	46.37	MEDICARE - EE	0.12	5.05
						SOCIAL SEC - EE	0.54	21.60

Totals:	46.37	8.69	46.37
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DIRECT DEPOSIT			Net Pay
Type	Account	Amount	
C	86596	8.03	8.03

Net Pay Y-T-D

321.74

Total:	8.03
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Total:	0.66	26.65
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Y-T-D EARNINGS		PAID TIME OFF	
Description	Amount	Description	C/O Accrued Used Available
REG PAY	348.39		

EMPLOYER CONTRIBUTIONS		
Description	Amount	Y-T-D

Total: 348.39

\*\* IMPORTANT NOTES \*\*

Total: 0.00 0.00

PHR\_SS\_OASIS\_CHECKS\_V2

# Oasis

A PAYCHEX company

ARIA  
950 EVERNIA STREET SUITE 209  
WEST PALM BEACH, FL 33401

01-21-2022

AMOUNT

\*\* VOID \*\*

Pay: Your net pay has been directly deposited into your bank account.

To The Order Of: /

N ... Negotiable

EVERNIA HEALTH CENTER, LLC (22542)

d/b/a ARIA

950 EVERNIA STREET, SUITE 209

WEST PALM BEACH, FL 33401

561-628-9044

OASIS OUTSOURCING HR, LLC

2054 VISTA PARKWAY STE 300

WEST PALM BEACH, FL 33411

OASIS SRQ LAUNCH TEAM 888-679-8865

Voucher #: 002206 Sort Order: 15

Employee ID	Employee Name	Check Date	Period Start	Period End	Check No
GZ3741		02-18-2022	01-31-2022	02-13-2022	46479769

Fed Tax SS/Single

State Tax /

Method Of Payment: Hourly

CURRENT EARNINGS DETAIL						DEDUCTIONS / TAXES		
Charge Date	Description	Rate	Hours/Units	Amount	Hours Worked	Description	Amount	Y-T-D
02-13-2022	REG PAY	15.0000	39.85	597.75	39.85	MEAL DED	0.00	23.32
						PAY ADVANCE	0.00	807.00
						FEDERAL INCOME	9.97	128.73
						MEDICARE - EE	8.67	36.25
						SOCIAL SEC - EE	37.06	154.99

Totals:	39.85	597.75	39.85
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DIRECT DEPOSIT			Net Pay
Type	Account	Amount	
C	86596	542.05	542.05

Net Pay Y-T-D

1,349.50

Total: 542.05

Total: 55.70 1,150.29

Y-T-D EARNINGS		PAID TIME OFF	
Description	Amount	Description	C/O Accrued Used Available
REG PAY	1,635.39		
RETRO PAY	864.40		

EMPLOYER CONTRIBUTIONS		
Description	Amount	Y-T-D

Total: 2,499.79

\*\* IMPORTANT NOTES \*\*

Total: 0.00 0.00

PHR\_SS\_OASIS\_CHECKS\_V2

**Oasis**

A PAYCHEX company

ARIA

950 EVERNIA STREET SUITE 209

WEST PALM BEACH, FL 33401

02-18-2022

AMOUNT

\*\* VOID \*\*

Pay: Your net pay has been directly deposited into your bank account.

To The Order Of:

6

This check has payments from 4010 disc. removed  
 from this payrun 10/1/2011

EVERNIA HEALTH CARE, LLC  
d/b/a ARIA  
950 EVERNIA STREET, SUITE 209  
WEST PALM BEACH, FL 33401  
561-628-9044

OASIS DRUGS COMPANY, LLC  
2054 VISTA PARKWAY STE 300  
WEST PALM BEACH, FL 33411  
OASIS SRQ LAUNCH TEAM 888-679-8865

Voucher #: 002494 Sort Order: 15

Employee ID	Employee Name	Check Date	Period Start	Period End	Check No
GZ3741		05-13-2022	04-25-2022	05-08-2022	55765557

Fed Tax Status/Allow: SS/Single

State Tax Status/Allow: /

Method Of Payment: Hourly

Charge Date	Description	Rate	Hours/Units	Amount	Hours Worked
05-08-2022	MISC TAX INC	71.6800	1.00	71.68	0.00

Description	Amount	Y-T-D
MEAL DED	0.00	23.32
PAY ADVANCE	0.00	807.00
FEDERAL INCOME	0.00	128.73
MEDICARE - EE	1.04	37.29
SOCIAL SEC - EE	4.44	159.43

Totals: 1.00 71.68 0.00

Type	DIRECT DEPOSIT Account	Amount	Net Pay
			66.20
			Net Pay Y-T-D
			1,415.70

Total: 0.00

Total: 5.48 1,155.77

Y-T-D EARNINGS		PAID TIME OFF			
Description	Amount	C/O	Accrued	Used	Available
REG PAY	1,635.39				
RETRO PAY	864.40				
MISC TAX INC	71.68				

EMPLOYER CONTRIBUTIONS		
Description	Amount	Y-T-D

Total: 2,571.47

\*\* IMPORTANT NOTES \*\*

Total: 0.00 0.00

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

**Oasis**  
A PAYCHEX company

BANK OF AMERICA  
BANK OF AMERICA  
ATLANTA DEKALB COUNTY GA

MOBILE DEPOSIT  
CHECK ☐ BOX ☐

**Fraud Protected**  
Pay Positive Pay

55765557  
64-1278/611  
AMOUNT  
\*\*\*\*\*66.20

05-13-2022

950 EVERNIA STREET SUITE 209  
WEST PALM BEACH, FL 33401

Pay: SIXTY-SIX DOLLARS and 20 CENTS

\*\* NOT VALID AFTER 90 DAYS \*\*

To The Order Of:

*[Signature]*

SECURITY FEATURES INCLUDED  
DETAILS ON BACK

⑈55765557⑈ ⑆061112788⑆ 3299039224⑈

*[Signature]*  
Client Signature









3/19/22  
Date

\* Please return to Minam Jarrett.

Outlook

Search

AL



 New message
  Reply
  Delete
  Archive
  Move to
 


 Folders


 Inbox 25


 Junk Email


 Drafts


 Sent Items


 Deleted Items 936


 Archive


 Notes


 Conversation History


 Unwanted

Create new folder

&gt; Groups

Exhibit  
E

## Re: Andrew Horace v. ARIA - RE: Race Discrimination

X Close

AL

A L






To: Rduren@pbcg Mon 10/24/2022 2:00 PM

Cc: Pamela Guerr

Mr Duren,

This is communication with all parties involved Mr.Antonoff had ample time to obtain Besty's report to support my true allegation of race and he failed.I honestly don't think Mr Antonoff even asked for such report because he said in a recent conversation last week via phone; that it will not help me! It definitely would have Mr Antonoff.I was paid significantly less than an Hispanic Women who performed equally the same work as a Behavioral Health Technician.My pay-rate was changed twice.I agreed to 15/hr.By Law I'm entitled to be paid on what was agreed upon.My pay-rate was changed w/o my consent to 10/hr and then to 0.1875/hr.When Charging Party brought this issue up,The Respondent lied and said it's correct and this information was sent in to OEO and it wasn't considered. Ultimately, OEO failed me as an employee and mishandled my Charge.

Respectfully,

Sent from Outlook

From: A L &lt;andrew4637@hotmail.com&gt;

Sent: Monday, September 12, 2022 9:40 AM

To: Steven Antonoff &lt;SAntonoff@pbcgov.org&gt;

Cc: Pamela Guerrier &lt;pguerrie@pbcgov.org&gt;

Subject: Re: Andrew Horace v. ARIA - RE: Race Discrimination

Outlook

Search

AL

New message Reply Delete Archive Move to

Folders

Inbox 25

Junk Email

Drafts

Sent Items

Deleted Items 936

Archive

Notes

Conversation History

Unwanted

Create new folder

Groups

Exhibit  
F

Close Race Discrimination

AL A L  
To: Steven Antonoff Fri 9/9/2022 3:33 PM

Steven,

I hope this reaches you well. I spoke with Mrs. Guerrier. I advised her that I didn't know the last name of the employee who is of a different race to compare my pay issue with. If I recall Mrs. Guerrier stated the employee records can be obtained. The employee of a different race is "Betsy" she had the same title as I ; **"Behavioral Health Technician"**.

Your confirmation to this email is needed/thx

Respectfully,

Sent from Outlook

Reply Forward